

**U.S. Environmental Protection Agency
Oregon Department of Agriculture and Oregon OSHA**

**End-of-Year Review Report for the
Fiscal Year 2013
Pesticide Cooperative Agreements**

February 28, 2014

Summary

This end-of-year evaluation report covers the review of the pesticide programs of two Oregon state agencies: the Oregon Department of Agriculture (ODA) and the Oregon Occupational Safety and Health Administration (OSHA). This summary provides an overview of major efforts, accomplishments, and suggestions for improvement.

In Fiscal Year (FY) 2013, ODA implemented an excellent enforcement program. ODA continued to improve its program by implementing new procedures to address EPA's recommendations in the past few years. ODA greatly improved the time it took to write narrative reports, issue enforcement actions, and turn-around laboratory analyses. EPA continues to be impressed by the number of environmental samples analyzed. ODA exceeded the number of inspections that it projected at the beginning of the year. Utilizing state funding, ODA conducted 361 more inspections than projected in the FY 2013 work plan and analyzed 236 more environmental samples than originally projected. EPA found that inspections conducted were thorough, and the enforcement actions issued were consistent with the enforcement response policy. Furthermore, the enforcement action number increased significantly in FY 2013.

Oregon OSHA continued to implement an excellent Worker Protection Standard (WPS) enforcement program. The compliance officers were well-trained to do their work, and they conducted detailed and thorough inspections. Checklists were used during interviews with handlers and workers, and Letters of Corrective Action were used to ensure that violators came back into compliance. The enforcement actions issued were timely and consistent with the enforcement response policy.

ODA implemented an excellent certification and training program that addressed the important issues and the needs of applicators in Oregon. In FY 2013, 4,290 private applicators and 5,781 commercial applicators were certified and licensed in Oregon. ODA was instrumental in the Northwest regional efforts to develop a regional soil fumigant examination and was part of a committee to revise the learning objectives for the National Core Manual and examination questions. ODA created a new license type called Pesticide Apprentice. These new licenses are issued to individuals who apply pesticides only when supervised by licensed public or commercial pesticide applicators.

Oregon OSHA participated in 45 agricultural classes and workshops and expanded outreach to Oregon's Forestry stakeholders regarding WPS. Oregon OSHA organized the Annual Oregon Pesticide Symposium and presented at the Oregon Governor's Occupational Safety and Health Conference. In FY 2013, Oregon OSHA continued to support the National Institute for Occupational Safety and Health on its personal protection equipment surveillance project and presented at its stakeholder meeting.

During FY 2013, ODA continued to work in cooperation with State and local agencies regarding pesticide management to protect water quality. In partnership with the Water Quality Pesticide Management Team, ODA evaluated available monitoring data, identified Pesticides of Interest

and Pesticides of Concern, and managed Pesticides of Concern. Levels of chlorpyrifos, diuron, and malathion were significantly reduced in the fruit growing areas along the Columbia River near Hood River, The Dalles, and Milton-Freewater, Oregon. ODA also conducted outreach and education related to pesticides and water quality issues at training courses and at grower association and applicator meetings.

The protection of endangered salmon remained a significant interest for Oregon growers in FY 2013, and ODA conducted many activities related to the protection of endangered and threatened species. ODA worked with the National Association of State Departments of Agriculture and submitted comments on the draft Biological Opinions issued by the National Marine Fisheries Service. ODA also commented on EPA's "Proposal for Enhancing Stakeholder Input in the Pesticide Registration Review and Endangered Species Act Consultation Processes and Development of Economically and Technologically Feasible Reasonable and Prudent Alternatives". ODA continued to provide outreach and education related to endangered species protection to pesticide applicators and interested parties through newsletters and at training classes.

I. BACKGROUND

A. General

1. History

In Oregon, EPA Region 10 has cooperative agreements with two state agencies: ODA and Oregon OSHA. ODA is the state lead agency for pesticide use enforcement, certification and training of pesticide applicators, the water quality protection program, and the endangered species program. Oregon OSHA is the primary state agency for enforcing the employer-employee aspects of WPS.

Funding of the cooperative agreement with ODA is authorized by FIFRA Section 23. For FY 2013, EPA provided ODA with \$451,000 in federal funds through the cooperative agreement. For FY 2013, EPA did not provide Oregon OSHA with any federal funds. Oregon OSHA receives federal funding directly from the U.S. Department of Labor, Occupational Safety and Health Administration. Thus, Oregon OSHA has an un-funded cooperative agreement with EPA Region 10.

In FY 1994, Oregon OSHA formally adopted, by reference, EPA's WPS for Agricultural Pesticides, 40 C.F.R. Part 170, into its administrative rules at Oregon Administrative Rules, Chapter 437, Division 81 - Agricultural Operations and Farming. As a result of Oregon OSHA's rule adoption, the enforcement of EPA's WPS is conducted by Oregon OSHA. In FY 2001, EPA Region 10 and Oregon OSHA entered into an unfunded cooperative agreement. This cooperative agreement between EPA and Oregon OSHA creates a direct, on-going working relationship between EPA and Oregon OSHA, with respect to the employer-employee aspect of WPS. Moreover, during FY 2001, ODA and Oregon OSHA finalized an interagency agreement that reflected the continuous coordination and implementation of the WPS activities in Oregon.

2. Project Period

The project period for the cooperative agreement with ODA was from July 1, 2012 to June 30, 2013, which was ODA's FY 2013.

The project period for the Oregon OSHA cooperative agreement was from October 1, 2012, to September 30, 2013, which was Oregon OSHA's FY 2013.

3. Review Methods and Dates

For the ODA, the end-of-year review for FY 2013 was conducted via a telephone call on November 25, 2013.

The end-of-year review for Oregon OSHA was conducted via a telephone call on December 4, 2013.

4. Review Participants

On November 25, 2013, EPA Region 10 participated in the end-of-year review of ODA's pesticide programs. Participants from EPA at the review were Kelly McFadden, Manager of Pesticides and Toxics Unit; Chad Schulze, Pesticides Enforcement Lead; Derrick Terada, Coordinator of Certification and Training and Worker Safety Programs; Gabriela Carvalho, Coordinator of Pesticides and Water Quality Program; and Linda Liu, Oregon Project Officer and Coordinator of Endangered Species Protection Program.

The ODA participants at the review were Ray Jaindl, Director of Natural Resources Policy Area; Dale Mitchell, Manager of Pesticides Program; Rose Kachadoorian, Team Leader for Certification and Licensing, Registration, Water Quality, and Endangered Species Programs; Mike Odenthal, Lead Investigator; Sunny Jones, Compliance Specialist; and Steve Riley, Registration and Water Issues Specialist.

On December 4, 2013, Kelly McFadden, Derrick Terada, and Linda Liu participated in the Oregon OSHA end-of-year review.

The Oregon OSHA participants during the review were Stanton Thomas, Field Enforcement Manager, and Garnet Cooke, Pesticide Coordinator.

B. Scope of Reviews

This report summarizes the results of the end-of-year review for two cooperative agreements: (1) between EPA and ODA; and (2) between EPA and the Oregon OSHA. Program accomplishments, effectiveness, problem areas, suggestions for improvement, and any resolutions to problems are described in the sections below.

II. FINANCIALS

A. Budget Analysis

The following table summarizes funding and expenditures for the cooperative agreement with ODA:

Work Plan Component	EPA Funding	State Funding	Total Funding	Un-obligated funds
Enforcement	\$271,000	\$1,170,021	\$1,441,021	\$0
Certification	\$117,000	\$255,591	\$372,591	\$0
Programs*	\$63,000	\$41,989	\$104,989	\$0
TOTAL	\$451,000	\$1,467,600	\$1,918,601	\$0

*Programs included Worker Safety, Pesticides and Water Quality, and Endangered Species Protection.

III. COMPLIANCE AND ENFORCEMENT

A. Reports from ODA

1. Pesticide Enforcement Cooperative Agreement Accomplishment Reports, EPA Forms 5700-33H, are attached as Appendix A.
2. Pesticide Enforcement Outcome Measure Reporting Form is attached as Appendix B.
3. ODA's enforcement summary for FY 2013 is attached as Appendix C.
4. Summary of inspections and enforcement actions. The following tables summarize the inspection and enforcement activities that ODA reported to EPA.

Inspections and Samples Projected and Completed by ODA. This table compares inspection and sample projections as stated in ODA's workplan and the actual accomplishments.

Inspection Type	Inspections Projected	Inspections Completed	Physical Samples Projected	Physical Samples Analyzed
Agricultural (Ag) Use Observations	10	19	0	15
WPS - operator/grower information exchange (OGIE)	0	2	0	0
Soil Fumigant Applications	5	6	0	0
Ag Use Follow-up	15	70	40	216
Non-Ag Use Observations	10	26	0	0
Non-Ag Use Follow-up	15	75	19	64
Experimental Use Permits	1	1	0	0
Producing Establishment	6	6	0	0
Container/Containment	3	3	0	0
Marketplace	10	82	0	0
Import	1	2	0	0
Export	1	0	0	0
Applicator Records	10	124	0	0
OGIE	0	22	0	0
Restricted Use Pesticide Dealer	10	45	0	0
TOTAL	89	450	59	295

ODA exceeded the total number of inspections that were projected at the beginning of the year, except in one category: export. Export inspections are dependent on referrals from EPA Region 10 and cannot be accurately projected at the beginning of the year. In FY 2013, ODA did not receive any export referrals from EPA Region 10. ODA was able to substitute other types of inspections to make up the difference. At the end of the fiscal year, ODA conducted 361 more inspections than projected in its workplan.

Although EPA provided ODA with funding to analyze 59 samples, ODA used state funding and analyzed a total of 295 samples in FY 2013. EPA greatly appreciates ODA's increase in samples analyzed over the past three years. Figure 1 below shows the increase of number of samples analyzed by ODA.

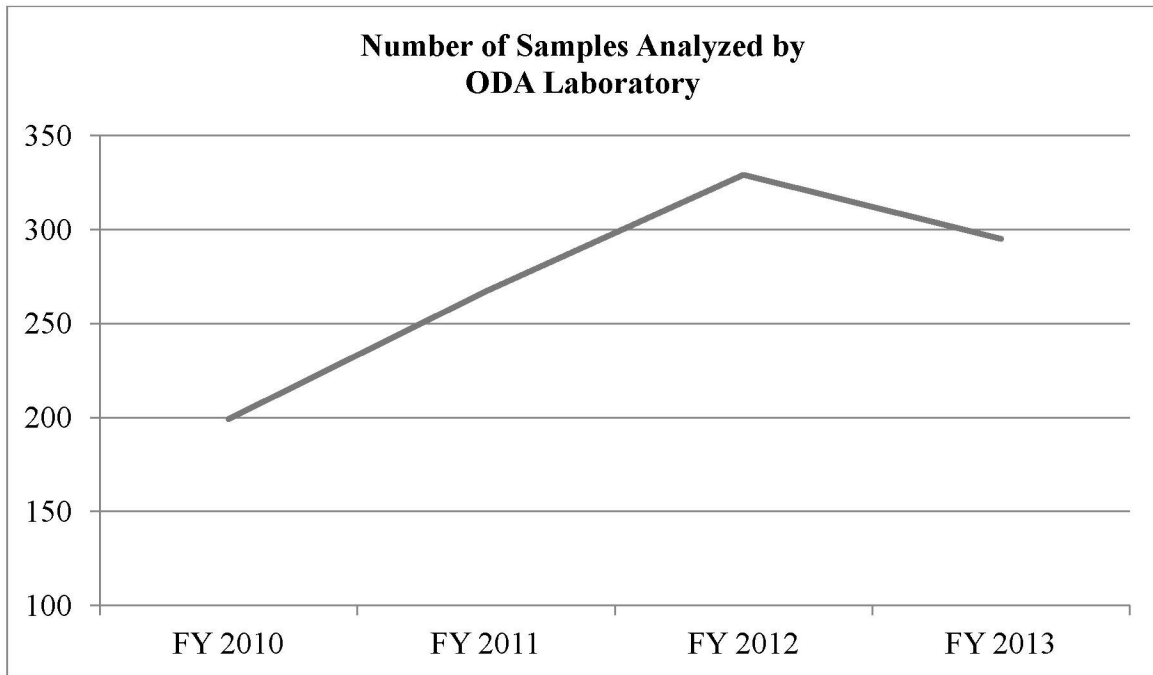


Figure 1

Enforcement Actions reported by the ODA in EPA Form 5700-33H

Inspection Type	Warnings Issued	Fine Assessed	Civil Complaints	License Actions	SSUROs	Other Actions*
Ag Use Observations	0	0	0	0	0	0
Ag Use Follow-up	20	33	33	6	0	0
Non-Ag Use Observations	10	0	0	0	0	0
Non-ag. Use Follow-up	26	14	14	0	0	1
Experimental Use	0	0	0	0	0	0
Producing Establishment	0	0	0	0	0	6
Market Place	19	5	5	0	26	26
Import	0	0	0	0	0	0
Export	0	0	0	0	0	3
Applicator Records	33	29	29	0	0	0
Restricted Use Pesticide Dealer	1	3	3	0	0	0
TOTAL	109	84	84	6	26	36

*Other Actions include cases forwarded to EPA for actions

In FY 2013, ODA significantly increased the number of enforcement actions issued. Figure 2 below shows ODA's inspection numbers and enforcement action numbers in the past four years.

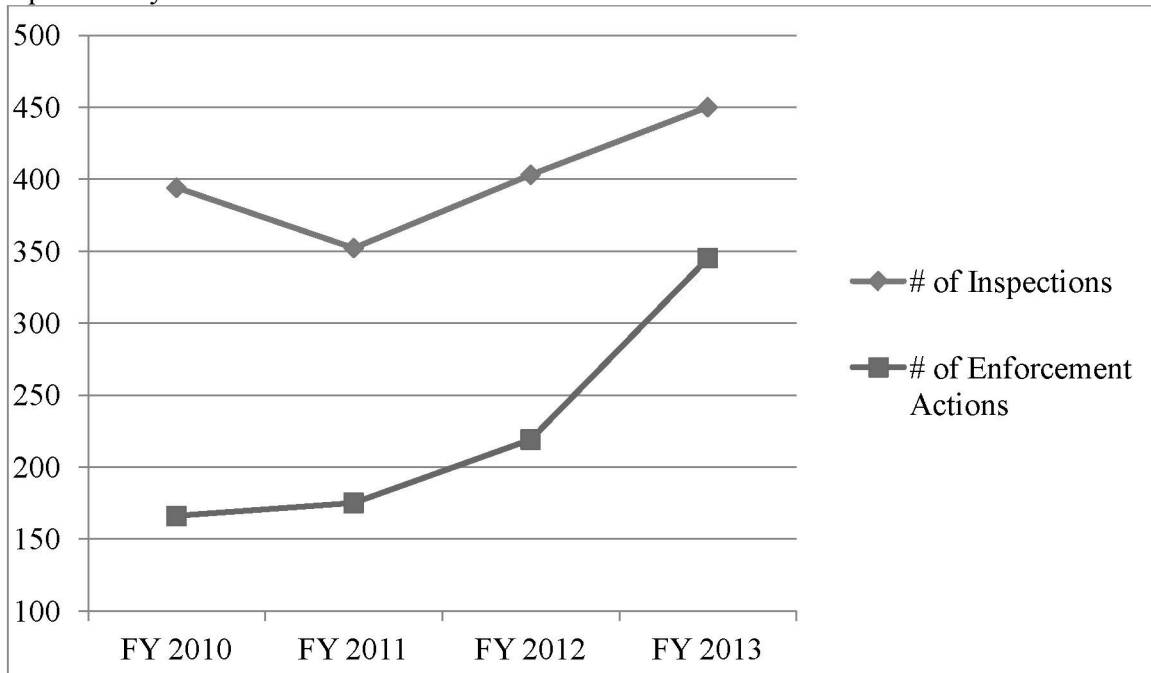


Figure 2

B. Reports from Oregon OSHA

1. Pesticide Enforcement Cooperative Agreement Accomplishment Report, EPA WPS Form 5700-33H, is attached as Appendix D.
2. Oregon OSHA's Pesticide Enforcement Outcome Measure Reporting Form is attached as Appendix E.
3. Oregon OSHA Pesticide Emphasis Program Annual Report Federal Fiscal Year 2013 is attached as Appendix F.
4. Summary of inspections and enforcement actions. The following tables summarize the inspection and enforcement activities that ODA reported to EPA on Form 5700-33H.

WPS Inspections Completed by Oregon OSHA	
Inspection Type	Inspections Completed
Agricultural Use Total	51
Tier I WPS	29
Tier II WPS	10
Agricultural For Cause Total	12
Tier I WPS	22
Tier II WPS	2
TOTAL	63

In FY 2013, Oregon OSHA exceeded the 60 inspections projected and conducted 63 inspections. Of the 63 inspections, 51 were Tier I and 12 were Tier II inspections.

WPS Enforcement Actions Reported by Oregon OSHA

Inspection Type	Formal Actions (Citations) Issued	Cases which had Civil Penalties	Administrative Hearings	Criminal Action	Other Actions (informal advisory letters)
Agricultural Use Observations	10	10	0	0	21
Agricultural For Cause	1	1	0	0	7
TOTAL	11	11	0	0	28

Oregon OSHA addressed the violation trends in the past year and did an excellent job in targeting facilities to inspect. Figure 3 below shows Oregon OSHA's inspection numbers and enforcement action numbers in the past four years.

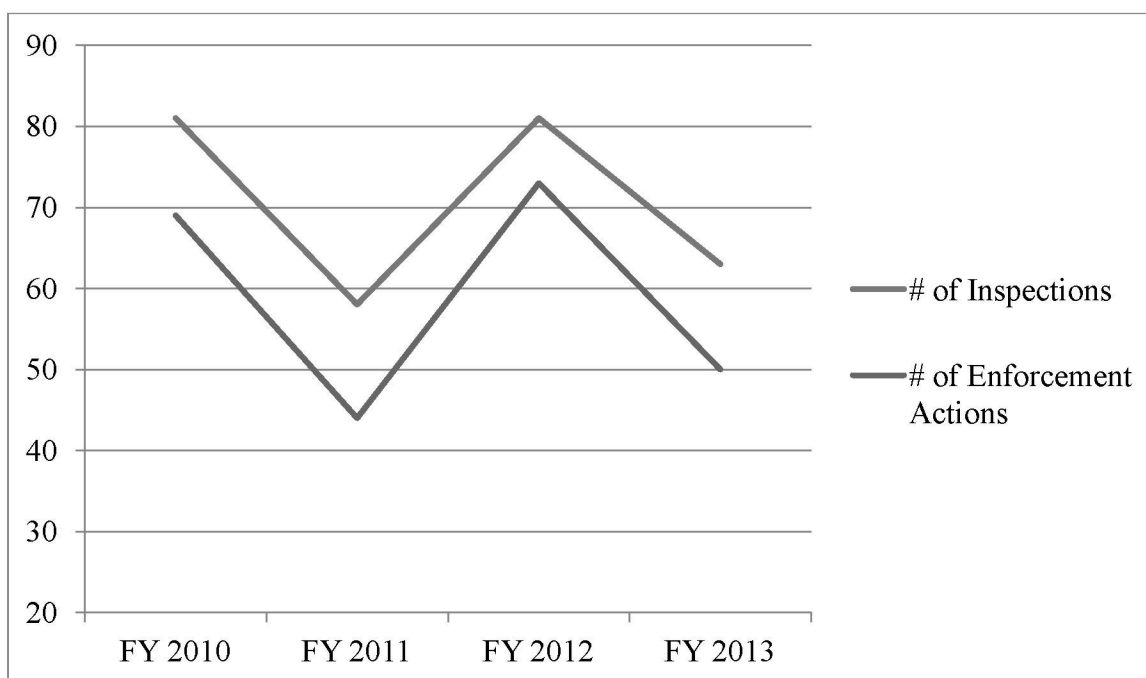


Figure 3

C. Case File and Enforcement Action Evaluation for non-WPS Cases

1. ODA Case Review, Enforcement Action Evaluation, and Significant Cases

EPA Region 10 reviewed 21 randomly selected case files. The evaluation of the case files, the enforcement actions, and the significant cases' coordination are summarized in the table below.

#		Did ODA meet EPA's expectations?		Comment
		Yes	No	
1	Conduct thorough inspections	√		
2	Include good narrative reports in the case files	√		The narratives were well written and thorough. EPA recommends that in the Sampling Plans, ODA provide more details on how sample locations, sample types, and number of samples are chosen.
3	Write narrative reports in a timely manner	√		81% of inspection reports were completed within 120 days of initiations of the inspections. The 120-day time frame is an unwritten goal set by ODA for inspection reports.
4	Present federal credentials for Producer Establishment Inspections (PEIs) and follow state policies with regards to identifying themselves at the start of the inspections	√		ODA conducted six PEIs that required inspectors to present their federal credentials, and ODA presented their credentials for all six PEIs. ODA indicated that after EPA's recommendation in the FY 2012 End-of-Year Review, it started a new procedure that requires inspectors to introduce themselves with identifications at the start of non-PEI inspections. Some reports reviewed by EPA did not document these acts in the inspection reports. Most of these reports were written before ODA initiated its new procedure. EPA recommends that the act of introduction with identifications be documented in inspection reports.
5	For Dealer Record Inspections (DRIs), review receipts to ensure that only licensed individuals purchased Restricted Use Pesticides (RUPs)	√		
6	For DRIs or Market Place Inspections (MPIs), ensure that pesticides are labeled in accordance with laws	√		
7	For Applicator Records Inspections (ARIs), review application records	√		
8	For ARIs, check if the applicators were adequately licensed	√		
9	For Use Inspections, check if the applicators were adequately licensed	√		

#		Did ODA meet EPA's expectations?		Comment
		Yes	No	
10	For Use Inspections, gather adequate application records	√		
11	For Use Follow-up Inspections (UFs), respond to complaints in a timely manner	√		<p>Response times to complaints were excellent. In a few cases, response times were longer than normal. After speaking with ODA, EPA found that in most cases, ODA had responded in a timely manner but had just not documented the initial response in the inspection reports.</p> <p>EPA recommends that ODA document all communications that ODA has prior to actual inspections.</p>
12	Include in the case file the rationale for not responding to complaints in a timely manner	√		
13	During UFs, collect sufficient physical samples	√		<p>ODA collected numerous samples during inspections.</p> <p>EPA greatly appreciates ODA's steady increase in samples collected over the past three years and recommends that ODA continue collecting this increased number of samples.</p>
14	If physical samples were not collected during UFs, include the rationale in the case files	√		
15	Have adequate laboratory turn-around times	√		<p>ODA's laboratory turn-around time was within 120 days in all but one case.</p> <p>ODA has significantly improved the laboratory's turn-around time.</p>
16	Take adequate photographs	√		<p>ODA inspectors took photographs in all but one inspection. This inspection was a routine MPI where no violations were identified and photographs were inconsequential.</p> <p>That said, EPA recommends that ODA take photographs during all MPIs. ODA could take set up shots at the front of the buildings and some that illustrate the focus of the inspections; e.g., pesticide products offered for sale.</p>
17	For inspections, include adequate copies of the product labels in the appropriate case files	√		
18	Include maps when appropriate	√		<p>ODA inspectors included maps in all but one case.</p> <p>EPA recommends that ODA strives to include maps in case files.</p>

#		Did ODA meet EPA's expectations?		Comment
		Yes	No	
19	Include adequate supporting documents	√		
20	Follow its enforcement response policy	√		
21	Issue timely enforcement actions	√		All but two enforcement actions were issued within 365 days of the initiation dates of the inspections. One of the two enforcement actions was delayed because of EPA Office of Enforcement and Compliance Assurance's long response time to an Enforcement Case Review. The other enforcement action was issued 367 days after the initiation date of the inspection.
22	Coordinate significant cases with EPA	√		

2. State Recommendations

ODA provided three recommendations to EPA:

- a. ODA recommends that EPA improve the responsiveness to ODA's requests on pesticide label reviews and interpretations. For pesticide label reviews, EPA Region 10 often forwards them to other EPA Regions for further actions, but ODA does not know the outcome of these. ODA relies on EPA's label interpretations for many of its enforcement actions. EPA Regional Office forwards these requests to EPA's Office of Enforcement and Compliance Assurance (OECA), and sometimes the response from OECA can take months;
- b. ODA recommends that EPA recognize that ODA's compliance and enforcement program includes more activities than those described in the cooperative agreement with EPA. In addition to the core enforcement activities, ODA's compliance and enforcement program includes state-only funded compliance assistance activities. In FY 2013, ODA performed compliance assistance at several marketplaces and training workshops related to record keeping for commercial applicators; and
- c. ODA wishes to commend EPA Headquarters and Region 10 for the assistance provided during a significant case with national ramifications and recommends that EPA continue to work as closely and cooperatively with the State Lead Agencies.

D. Compliance Priority – WPS

1. Oregon OSHA Case Review, Enforcement Action Evaluation, and Significant Cases

EPA Region10 reviewed nine WPS cases. The evaluation of the case files, the enforcement actions, and the significant cases' coordination are summarized in the table below:

#		Did Oregon OSHA meet EPA's expectations?		Comment
		Yes	No	
1	Conduct thorough inspections	√		
2	Include good narrative reports in the case files	√		
3	Write narrative reports in a timely manner	√		
4	Present credentials at the beginning of inspections	√		
5	For the use follow-up inspections, respond to the complaints in a timely manner	√		
6	Include photographs in case files	√		
7	Include adequate copies of the product labels	√		
8	Include documentation that address central location, safety training, decontamination supplies, notice of application, posting of application, information exchange, and early entry requirements	√		
9	Address personal protective equipment, mixing and loading and application equipment, emergency assistance, and retaliation	√		
10	Include documentation of appropriate worker and handler interviews	√		
11	Issue enforcement actions in timely manner	√		
12	Follow enforcement response policy	√		
13	Address problem areas identified by violation trends	√		
14	Adequately coordinate significant cases with EPA	√		

WPS Compliance Analysis

During the inspections conducted in FY 2013, Oregon OSHA identified 126 WPS violations. Of the 126 violations, 51 were related to central posting, 27 were related to training, 25 were related to personal protective equipment, 17 were related to

decontamination, five were related to notice of application, and one was related to information exchange.

2. State Feedback

None.

E. Inspection and Enforcement Support

1. Training at ODA

To adequately investigate violations of state pesticide laws, a state needs to ensure that state inspection and enforcement personnel are trained in such areas as health and safety, violation discovery, obtaining consent, sampling procedures, case development procedures, and maintenance of case files. A continuing education program is also crucial so that the staff can keep abreast of legal developments and technological advances. ODA has four investigators with EPA inspector credentials. These investigators obtain their eight-hour health and safety refreshers online. In addition, all ODA investigators attend grower/applicator meetings to enhance their knowledge of the regulated community. ODA investigators attended EPA's Pesticide Inspector Residential Training in West Lafayette, Indiana, and in Asheville, North Carolina, both held in September 2012. On March 7, 2013, ODA investigators, , as well as ODA's registration and certification/licensing staff, participated in the Oregon Pesticide Symposium in Portland, Oregon. In addition, an ODA investigator participated in EPA's Pesticide Regulatory Education Program in Davis, California, from April 29 to May 3, 2013.

2. Training at Oregon OSHA

Each year, all Oregon OSHA compliance officers attend the Oregon Pesticide Symposium, an annual multi-agency event organized by Oregon OSHA. During the symposium, refresher courses on health and safety and case development are provided and lessons learned during the past year are discussed. The 2013 Oregon Pesticide Symposium featured speakers from the Agrisafe Network, Pacific Northwest Agricultural Safety and Health Center at University of Washington, National Pesticide Information Center, Oregon Department of Environmental Quality, ODA, Oregon OSHA, and EPA.

F. Special Activities Conducted by ODA

In mid June 2013, ODA started investigating large bee kill incidents in Wilsonville and Hillsboro in Oregon. ODA coordinated with the Xerces Society, EPA, and Oregon State University on the investigations. ODA kept EPA Headquarters and Region 10 well informed of the activities associated with its investigations. To minimize any potential for additional bee kill incidents, ODA adopted a temporary rule to restrict the use of 18 pesticide products containing the active ingredient dinotefuran. The rule went into effect from June 27, 2013, to December 24, 2013. At this time, these cases are still open.

G. New Legislation and Regulations

In June 2013, ODA adopted Oregon Administrative Rule 603-057-0386 for 180 days to restrict the use of pesticides containing the active ingredient dinotefuran. ODA found dinotefuran at the bee kill locations. Failure to comply with the temporary rule may result in fines, license suspension, and/or other enforcement actions.

H. Action Items from FY 2012 End-of-Year Reviews

1. ODA

In FY 2012, EPA Region 10 made eight recommendations to ODA's enforcement program, and ODA addressed them as follows:

- a. EPA Recommendation: Develop a Standard Operating Procedure (SOP) to address finalizing the narrative portions of the inspection reports and the administrative records.

ODA Action: ODA indicated that its procedure does not allow the narrative portion of the report to be finalized until the case reviewer provides the enforcement findings. EPA understands this limitation and requests that ODA insert a date within the conclusion write-up.

- b. EPA Recommendation: When investigators receive inquiries regarding illegal production, sale or distribution of pesticides, ensure that the parties fully understand the definition of pesticide and document such a discussion in the files.

ODA Action: ODA addressed this recommendation. Investigators now ensure that the inquirers understand the definition for pesticide and document such a discussion.

- c. EPA Recommendation: Describe in the case file if any documents referred to in any correspondence were not received.

ODA Action: ODA addressed this recommendation. Most of the case files now have such documentations.

- d. EPA Recommendation: Establish a time frame that the narrative reports should be written and a goal (percentage) of reports that meet this time frame.

ODA Action: ODA addressed this recommendation by setting a goal to finish the reports in 120 days.

- e. EPA Recommendation: Develop a policy to address presenting identifications at state inspections.

ODA Action: ODA addressed this recommendation. ODA developed a new procedure to ensure identifications are presented at the start of inspections.

- f. EPA Recommendation: Establish a time frame that analytical reports be produced.

ODA Action: ODA addressed this recommendation and in FY 2013, ODA significantly improved the laboratory turn-around time. For high priority cases, the turn-around time was less than 30 days. For other priorities, the turn-around time was less than 120 days. ODA Lead Investigator and ODA Laboratory Manager discussed workload and priorities on a regular basis.

- g. EPA Recommendation: Continue to provide complainants updates when investigation takes a long time to conclude.

ODA Action: ODA addressed this recommendation. Parties involved got updates and ODA documents these actions.

- h. EPA Recommendation: Continue to strive to issue enforcement actions as quickly as possible.

ODA Action: ODA addressed this recommendation. ODA drastically improved the time it took to issue enforcement actions. ODA indicated that 84% of the FY 2013 cases were completed in less than 365 days.

2. Oregon OSHA

There was no action item from the previous Oregon OSHA end-of-year review.

I. **Conclusions and Recommendations for Compliance/Enforcement**

1. ODA

ODA has an excellent enforcement program. In FY 2013, ODA continued to improve its pesticide enforcement program by implementing new procedures to address EPA's recommendations in the past few years. ODA greatly improved the time it took to write narrative reports, issue enforcement actions, and turn-around laboratory analyses. EPA continues to be impressed by the number of samples analyzed. ODA exceeded the number of inspections that it projected at the beginning of the year. Utilizing state funding, ODA conducted 361 more inspections than projected in the FY 2013 work plan and analyzed 236 more environmental samples than originally projected. EPA found that inspections conducted were thorough, and the enforcement actions issued were consistent with the enforcement response policy. Furthermore, the enforcement action number increased significantly in FY 2013.

EPA did not identify any deficiencies requiring mitigation measures. EPA has a few

observations and recommendations that can help strengthen ODA's enforcement program:

- a. For non-PEI inspections, document in the inspection reports the act of presenting state identifications;
- b. Document all communications that ODA has prior to actual inspections;
- c. In the sampling plans, provide more details on how sample locations, sample types, and number of samples are chosen;
- d. Take some photographs during market place inspections even if no violations are found;
- e. Strive to include maps in non-agricultural use observations even if no violations are found; and
- f. As described in the Action Items from FY 2012 End-of-Year Reviews section on page 12, insert a date in the case file that identifies that time that the conclusion was made.

2. Oregon OSHA

Oregon OSHA continues to implement an excellent WPS enforcement program. In FY 2013, Oregon OSHA exceeded the projected number of inspections. Compliance officers conducted thorough and well-documented inspections. Checklists were used during interviews with handlers and workers, and Letters of Corrective Action were used to ensure that violators came back into compliance. Furthermore, the enforcement actions issued were timely and consistent with the enforcement response policy. EPA does not have any recommendation for Oregon OSHA's enforcement program.

IV. PROGRAMS

A. Worker Safety

1. Certification and Training (C&T) of Pesticide Applicators by ODA

a. *Previous Recommendations*

None.

b. *Accomplishments*

ODA met all the C&T program activities projected in the FY 2013 workplan. A detailed description of ODA's C&T program activities can be found in Appendix G.

ODA's major accomplishments in FY 2013 are listed below:

- (1) A total of 4,290 private applicators and 5,781 commercial applicators were certified and licensed in Oregon;
- (2) ODA staff audited 16 of the 20 testing centers to ensure all examinations are accounted for and to ensure all security agreements are current;
- (3) ODA evaluated recertification courses for applicators and consultants. ODA audited 63 training classes for quality and content and accredited 1,083 continuing education classes;
- (4) ODA participated as presenters in 90 recertification training sessions;
- (5) For soil fumigants, ODA was instrumental in the Northwest regional efforts to develop a regional soil fumigant examination. ODA also conducted outreach on the new Phase 2 soil fumigant labels at pesticide license recertification meetings and industry stewardship meetings;
- (6) ODA was part of a committee to revise the learning objectives for the National Core Manual and examination questions;
- (7) ODA created a new license type: Pesticide Apprentice. Pesticide Apprentices are licensed individuals who can only apply when supervised by licensed public or commercial applicators. To qualify for a Pesticide Apprentice license, a person must pass the Laws and Safety examination. ODA no longer issues Directly Supervised Trainee licenses;
- (8) ODA made available the Laws and Safety examination in both English and Spanish, and ODA furnished a list of appropriate pre-examination study materials in both languages;
- (9) ODA added links to educational resources regarding pollinator protection; and
- (10) ODA was active in the State FIFRA Issues Research and Evaluation Group (SFIREG) and the Certification and Training Assessment Group (CTAG). In FY 2013, ODA staff represented Region 10 states at SFIREG's Pesticide Operations and Management Committee, SFIREG's Environmental Quality Issues Committee, and CTAG's Board of Directors.

c. *State Feedback*

ODA would like to receive funding for translating the existing study materials and other relevant information from English to Spanish.

d. *EPA Recommendations*

EPA encourages ODA to translate study materials and other relevant information from English to Spanish. EPA will work with ODA in order to find ways to make this possible.

EPA encourages ODA to work with Oregon OSHA and Oregon State University to explore bilingual farm worker training for pesticide workers and handlers.

EPA invites ODA to comment on the proposed revisions to WPS.

2. Worker Protection Program by Oregon OSHA

a. *Previous Recommendations*

None.

b. *Accomplishments*

In FY 2013, Oregon OSHA conducted many education and outreach activities related to WPS. For more details, see Oregon OSHA Pesticide Emphasis Program Annual Report Federal Fiscal Year 2013 (Appendix F). Oregon OSHA has the following major accomplishments in FY 2013:

- (1) Presented at 45 agricultural classes and workshops, with a total of 3,872 attendees;
- (2) Organized the Annual Oregon Pesticide Symposium, to foster agency partnerships, to focus on enhancing each other's investigations, and to promote joint training opportunities. Participants included members from ODA, Oregon Department of Environmental Quality, Oregon Department of Transportation, Oregon Health Science University, National Pesticide Information Center, Oregon OSHA, and EPA Region 10;
- (3) Provided outreach and education to vineyards and wineries by partnering with Oregon Low Input Viticulture and Enology and Oregon OSHA's Consultation Services Section;
- (4) Provided outreach and education to the organic growers through Oregon Tilth, to increase awareness that the non-conventional pesticides which organic growers use could be regulated by EPA and the State agencies;
- (5) Presented at the Oregon Governor's Occupational Safety and Health Conference;
- (6) Expanded outreach to Oregon's Forestry stakeholders regarding WPS; and

- (7) Continued to support the National Institute for Occupational Safety and Health (NIOSH) on its personal protection equipment surveillance project and presented at its stakeholder meeting.

c. *State Feedback*

Oregon OSHA would like EPA to revise 40 C.F.R. Part 156, as well as the Label Review Manual, to reflect the current NIOSH language with regards to respiratory protection. Currently, pesticide users are hampered when selecting appropriate respirators due to the presence of severely outdated respirator language. Pesticide labeling has not kept up with the NIOSH respirator coding, and consequently, many pesticide labels require users to use incorrect and inadequate respirators. When NIOSH updated its respirator coding, NIOSH did not discontinue codes but changed what respirator each code referenced. Therefore, two identical NIOSH codes from 1990 and 2013 do not refer to the same type of respirator. Pesticide users cannot protect themselves when they are confused and unable to select the appropriate respirators. On February 20, 2014, EPA announced the proposed revisions to WPS. Oregon OSHA hopes that the final WPS rule will include updated respirator language.

d. *EPA Recommendations*

EPA encourages Oregon OSHA to work with ODA and Oregon State University to explore bilingual farm worker training for pesticide workers and handlers.

EPA invites Oregon OSHA to comment on the proposed revisions to WPS.

B. Water Quality Program

1. Previous Recommendations

None.

2. Accomplishments

ODA met the Water Quality Program commitments in the FY 2013 workplan. A detailed description of ODA's accomplishments can be found in Appendix H.

In Oregon, the Water Quality Pesticide Management Team (WQPMT) coordinates monitoring and other activities to improve water quality related to pesticides. Team members consist of representatives from ODA, Oregon Department of Environmental Quality, Oregon Health Authority, Oregon Department of Forestry and Oregon State University. In FY 2013, ODA was an active member of the WQPMT and led the team's effort to designate the FY 2013 Pesticides of Concern for Oregon.

In partnership with the WQPMT, ODA evaluated available monitoring data, identified Pesticides of Interest and Pesticides of Concern, and managed Pesticides of Concern. In

FY 2013, ODA listed 73 active ingredients as Pesticides of Interest (ODA added 16 to the original list of 57), listed six active ingredients as Pesticides of Concern, actively managed four active ingredients, and demonstrated progress for three active ingredients (chlorpyrifos, diuron, and malathion) in the fruit growing areas along the Columbia River near Hood River, The Dalles, and Milton-Freewater, Oregon. A summary of ODA's pesticide-specific and program management activities can be found in EPA's Pesticides of Interest Tracking System (POINTS) database at <http://www.points.wsu.edu/reports/fullReport.aspx>.

ODA conducted outreach and education related to pesticides and water quality issues at training courses and at grower association and applicator meetings. At these events, ODA presented information on the risk factors associated with pesticide use and showed examples of existing pesticide label language that demonstrates how risk factors are communicated and mitigated. Mitigation measures may include buffer zones or restrictions on soil type or climate conditions.

ODA's Agricultural Water Quality Management Program also included pesticide related issues in the Agricultural Water Quality Plans (Plans), especially if the watershed is in a Pesticide Stewardship Partnerships program's designated area. Pesticide-related items in the Plans may include recommended best management practices such as specific application practices.

In the 2013 legislative session, ODA and Oregon Department of Environmental Quality received new funding to support the Pesticide Stewardship Partnerships program, which will allow the program to expand into two new watersheds, implement eight pesticide waste collection events, and support technical assistance for the overall program. This expansion of the program is quite a notable accomplishment. EPA is eager to support ODA to make this program expansion as successful as possible.

3. State Feedback

ODA appreciated the excellent support provided by EPA Region 10 during the past year. ODA has two suggestions for EPA:

- a. Increase funding to the state's water quality program to support additional water quality outreach and education efforts and pesticide-related endangered species issues; and
- b. Help ODA identify management options and escalate concerns with pesticide label language, by connecting ODA's water quality program staff with technical experts at EPA's Office of Pesticide Programs and other states that are working on similar water quality issues and challenges.

4. Conclusions and Recommendations

EPA Region 10 appreciates all of ODA's efforts to improve water quality. EPA is

especially pleased that concentrations and detections of three Pesticides of Concern in the fruit growing areas along the Columbia River have reduced due to change of application practices encouraged by the Pesticide Stewardship Partnership program.

EPA greatly appreciates ODA's lead role in organizing the 2013 annual water quality meeting which continually improves the working relationships among Region 10 state water quality program coordinators. ODA was also a key contributor to helping EPA Region 10's new Water Quality Program Coordinator get up-to-speed on activities related to water quality in Oregon and nationally through ODA's service as the Region 10 representative at the State FIFRA Research and Evaluation Group's Environmental Quality Issues working committee. There are no new recommendations

C. Endangered Species Protection Program

1. Previous Recommendations

None.

2. Accomplishments

In FY 2013, ODA met the Endangered Species Protection Program (ESPP) commitments in the workplan. A detailed description of the ODA's ESPP can be found in Appendix I. The OPP Field Program for Endangered Species Data Collection Sheet for FY 2013 End-of-Year Report is attached in Appendix J. Major accomplishments in FY 2013 are listed below:

- a. ODA reviewed and worked with the National Association of State Departments of Agriculture (NASDA) and submitted comments on the Reasonable and Prudent Alternatives (RPAs) and Reasonable and Prudent Measures (PRMs) included in the draft Biological Opinions (BiOps) issued by the National Marine Fisheries Service (NMFS). In these BiOps, NMFS described the impacts to Pacific salmonids from applications of pesticides containing the following active ingredients: propargite, fenbutain oxide, and diflubenzuron.
- b. ODA worked with NASDA to comment on the "Proposal for Enhancing Stakeholder Input in the Pesticide Registration Review and Endangered Species Act Consultation Processes and Development of Economically and Technologically Feasible Reasonable and Prudent Alternatives";
- c. ODA wrote a letter to EPA in support of the collection of information relating to pesticide drift-reduction technologies;
- d. ODA informed growers and other pesticide users of the opportunity to comment on NMFS' draft BiOp;

- e. ODA provided outreach and education to pesticide applicators. ODA staff provided information related to the protection of threatened and endangered species at approximately 15 training classes; and
- f. ODA continued to work with the U.S. Fish and Wildlife Service, NMFS, and Oregon Department of Fish and Wildlife on registrations issued for emergency exemptions (FIFRA Section 18) and special local needs (FIFRA Section 24(c)).

3. State Feedback

ODA has the following recommendations for EPA:

- a. Have the same language to be used on the pesticide labels - not “no spray zone” on one label, and “buffer” on another;
- b. Include a box on the label for buffer zone information on the pesticide label; and
- c. Have buffer widths to be directly on the pesticide label, in a clear, consistent and easy to find location. Instead of going to a computer to calculate a buffer zone, ODA indicated that growers do not want to use a computer to find buffer zone information.

4. EPA Recommendations

EPA appreciates ODA work in protecting endangered species and its partnership with NASDA to provide comments on (1) EPA’s proposed new stakeholder input and consultation process; and (2) the draft reasonable and prudent alternatives and measures. EPA has no recommendations at this time.